

**MINUTES  
IOWA COMPREHENSIVE PETROLEUM UNDERGROUND STORAGE TANK  
FUND PROGRAM**

**July 19, 2007**

**ANNUAL STRATEGIC PLANNING SESSION  
DES MOINES AREA COMMUNITY COLLEGE  
2006 S. ANKENY BLVD, ANKENY, IOWA**

Susan Voss, Chairperson, called the Iowa UST Board meeting to order at 9:32 A.M. A quorum was present. Roll call was taken with the following Board members present:

Susan Voss  
Doug Beech  
Jim Holcomb  
Liz Christiansen (for Richard Leopold)  
Nancy Lincoln  
Jacqueline Johnson  
Jeff Robinson  
Stephen Larson (for Mike Fitzgerald)

Also present were:

David Steward, Attorney General's Office  
Timothy Benton, Attorney General's Office  
Scott Scheidel, Administrator  
James Gastineau, Program Administrator's Office  
Lacey Skalicky, Program Administrator's Office  
Rochelle Cardinale, Iowa Department of Natural Resources

***STRATEGIC PLANNING SESSION***

Ms. Voss reviewed the agenda for the day, which included a morning session of Strategic Planning for the current fiscal year (2008) and a regular Board meeting following a break for lunch.

## **I. Evaluation of Past Program Goals and Program Status**

### **A. Current Program Status**

Mr. Scheidel reviewed with the Board the updated annual narrative that outlines the current status of the Program as well as gives a historical perspective on the origin of the Program and changes that have occurred over the life of the Program.

Mr. Scheidel outlined the legislative intent of House File 447, which was codified under Iowa Code 455G in 1989. He noted the following topics:

- “Adequate and reliable financial assurance for the costs of cleanup on pre-existing releases” has been addressed by the Remedial Program to clean up releases that occurred prior to October 26, 1990.
- The Insurance Program was designed to “create financial responsibility assurance mechanism (insurance) to pay for future releases.” This program was transferred to the private sector in 2000.
- The “Fund was designed to be an interim measure” as suggested by the sunset date scheduled for June 30, 2016. Mr. Scheidel noted the trend downward in the number of open claims as evidence of progress.
- The Board has cooperated with the Department of Natural Resources to address leaking underground storage tank (LUST) sites to “minimize societal costs and environmental damage.”
- Board assistance has helped to “maintain Iowa’s rural petroleum distribution network” by providing cleanup for pre-existing conditions of petroleum contamination, as well as, enabling an ongoing financial responsibility mechanism for UST sites.

In reviewing this narrative, funding and operational issues were covered. Mr. Scheidel stated that the review was to both give a broad perspective status of the Program and to help keep the focus of the Program over its lifetime as a framework before discussing the more immediate goals.

Mr. Scheidel discussed the Remedial Program, as the heart of the program. To qualify for remedial funding, releases had to be reported to DNR between January 1985 and October of 1990, and claims had to be filed with the Board by February 1994. To date the Board had spent approximately \$175M on remedial claims, almost \$14M on retroactive claims, and \$20.5M on innocent landowner claims. Mr. Scheidel also explained that the Loan Guarantee Program was set up to provide up to a 90% guarantee to lenders to assist operators to pay for remedial expenditures and underground storage tank (UST) system upgrades. He stated that the Board ceased accepting new applications for loans effective December 31, 1999, and the two loan guarantees remaining had balances totaling \$229,799.24. Then he explained that the Insurance Program was set up to provide a financial responsibility mechanism for UST owners after the regulation date of October 26, 1990. The Board used artificial rates until 1995 when actuarially sound premiums were established. In 2000, the insurance program claims were

transferred to a not-for-profit mutual company, Petroleum Marketers Mutual Insurance Company, for the balance of the insurance fund totaling \$35,969,570.07.

Mr. Scheidel discussed the funding for the Iowa UST Board's goals, which is provided by 77% of tank management fees, which are collected by the Department of Natural Resources (DNR), as well as, \$17M from the motor vehicle use tax, which is collected by the Department of Revenue. To get the Iowa UST Programs started, the Board issued bonds, which have been re-funded and managed to date with a current annual debt service of approximately \$8.9M.

Mr. Scheidel noted that the currently-used funds for the Iowa UST Program include the Revenue Fund, which receives incoming revenues and pays out debt service; Unassigned Revenue Fund, which is used to pay the Board's monthly and regular invoices for services and money from this fund is also used to replenish the Remedial Fund when its balance is depleted. The Remedial Fund is used to pay remedial and retroactive claims; the Innocent Landowner Fund is used to pay innocent landowner and global settlement claims; and the Aboveground Storage Tank (AST) Fund was used to pay AST claims, however that program has ended and the fund will be closed out. The Loan Guarantee Fund is reserved for the payment on any loan defaults, and he explained that the Marketability Fund was established in 1995 with additional allocations from the Motor Vehicle Use Tax to provide additional funding for remedial claim payments. He noted that the Marketability Fund was most recently used to finance the AST Fund, created in FY2005 for the payment of AST claims. The Bond Funds show the distribution of debt service payments between bond series (i.e. 1997A Series bonds and 2004A Series bonds). And the Capital Reserve Fund holds a required capital reserve to maintain the bonds.

Mr. Scheidel also noted that the now defunct funds included the Comprehensive UST Fund which was funded by the Environmental Protection Charge collections of 1989 and 1990. Proceeds in the fund could be used for any Board-approved expenditure, and various licensing and copying fees were also deposited into this fund. The balance of the fund (\$20M+) was transferred into the Unassigned Revenue Fund in 1996. And the No Further Action (NFA) Fund, established in 1998 with a one-time allocation of \$10M, was used to reimburse the DNR for corrective action completed at any site previously issued a NFA certificate on or after January 31, 1997, if the high risk condition had not been caused by a subsequent release. The legislature eliminated the fund in 2000 with the balance of \$11M+ transferred into the pooled technology account for the State of Iowa. The liability for this fund was shifted to the Remedial Fund, which has made payments on 8 NFA claims to date. Mr. Scheidel stated that the 2007 legislative session had changed how the liability for a No Further Action claim would be decided. He restated the fact that the Insurance Fund was closed when all insurance claims were transferred to PMMIC in November of 2000.

Ms. Voss inquired about what would happen to any remaining fund balances at the end of the UST Program. Mr. Scheidel stated the diversion of unused funds was not addressed in the statute, however he supposed the legislature would appropriate any remaining funds into the General Fund at that time.

Next, Mr. Scheidel discussed some operational issues including prior contract approval, 28E agreements, community remediation projects, cost recovery efforts, innovative technologies, risk based corrective action (RBCA), rural distribution network, innocent landowners, privatization of the Insurance Program, technical training, owner/operator outreach, rule

review, aboveground storage tanks, and loss portfolio transfer (LPT). He noted specifically that the DNR began evaluating the RBCA process in 2006 to potentially apply the past 10 years of actual experiences at sites to the RBCA modeling software. An advisory group had provided recommendations to the DNR to recalibrate the software in May of 2007. The DNR had planned to file rule changes regarding the RBCA model in the coming months. Mr. Beech inquired whether the new model affected plastic water lines as a risk receptor. Mr. Scheidel stated that plastic water lines would be affected only to the extent of their presence within a receptor ID plume for groundwater pathways. Mr. Gastineau addressed the inquiry regarding the plastic water line permeability study at Iowa State University, which had been discussed at previous Board meetings. He explained that the study was scheduled for completion in April 2007, but was delayed until Fall 2007. He also stated that he hoped the stakeholders and the DNR might come to an agreement in the near future regarding the site specific target level set in response to the presence of plastic water lines, as the current number defaults to that of a protected groundwater source.

Ms. Christiansen inquired if the result of the plastic water line discussions would be completed timely to coincide with the filing of the rule changes regarding RBCA. The consensus was that the plastic water line research to be completed was far from finalized, outside of the ISU study, the results of which would only begin the discussion among stakeholders. Therefore, it was not expected that any rules regarding plastic water lines would be agreed upon by the time the RBCA rule changes will be filed.

Under technical training, Mr. Scheidel pointed out the use of 28E agreements with the DNR to facilitate the certification of groundwater professionals in the past and now the licensing of UST installers, inspectors, liners and testers. The Administrator's Office transferred all UST licensing files and duties to the DNR at the end of fiscal year 2007. He noted the DNR had also developed UST Compliance Inspector training and licensing to provide for the inspection of operating facilities by third parties to evaluate tank owner compliance.

Mr. Scheidel highlighted the closure of the Aboveground Storage Tank Program for which 414 claims were filed and \$11.2M in AST claim payments were made. Lastly, Mr. Scheidel discussed the completed Loss Portfolio Transfer (LPT) to PMMIC for 10 selected sites that were shared between the Fund for an old release and PMMIC for a new release. The Board had opted to transfer the Board's share of liability for the sites, upon agreement from the individual claimants, for a total of \$511,224.29. The results of the transfer included the closure of 10 UST Fund remedial/innocent landowner claims.

Tom Norris from PMMIC addressed the Board inquiring if the Board might be interested in another LPT proposal. He stated that the Board had 337 open claims on UST sites currently operating and insured by PMMIC. He explained that the number represented 28% of all open claims with the UST Program, reserve balances on all open claims (other than global settlement claims) totaled approximately \$69,300,000. He further stated that 28% of that was approximately \$19,400,000, and similarly the reserve balances on the 337 claims open and insured by PMMIC totaled approximately \$19,350,000.

Mr. Norris stated that PMMIC was seeking support from reinsurers to provide security against an adverse development. He also said that Mr. Scheidel was providing PMMIC with data to facilitate the development of a formal proposal for the Board. He explained that the claimants would benefit from the current relationship with PMMIC as their insurer, as PMMIC

inspectors visit their sites on a regular basis currently. In addition, the claimants would have third party liability protection that is not available through a UST Program claim. In his opinion the opportunity would benefit all parties. And Mr. Norris stated that once he received final data from the Administrator's Office and assurances from their reinsurers, PMMIC would be able to present the Board with a formal proposal within 45 days. Mr. Scheidel pointed out that cash flow would be a major Board concern, as the transfer amount would approximate the reserve balance of \$19.4M and the funds likely to be used to finance a transfer totaled about \$25M currently. Mr. Norris stated that PMMIC had considered the Board's cash flow concerns and would be willing to negotiate the transfer in an extended payout schedule, if necessary.

Mr. Holcomb inquired about the procedures surrounding the Board's LPT authority. Mr. Scheidel stated that anyone could approach the Board with a proposal for a transfer, and the Board could decide whether or not to pursue the transfer without bidding if it were not practicable to do so. He explained that the 10 sites previously transferred to PMMIC were shared, and a third party acquiring the Board's liability for those claims would still have shared liability with PMMIC, canceling out the benefit of one entity working the sites. The Board may consider whether or not the potential future liability at the sites with PMMIC was unique enough for the claimants that it would not be practicable to seek bids.

Mr. Norris requested that any formal bid be kept confidential in the case that the Board opts to seek additional bids for the transfer. Additionally, he stated that the Board might consider the motives of third parties, with no existing relationship to UST Fund claimants, wanting to enter into a LPT with the Board. He assured the Board that PMMIC's motivation was to protect their owners, in addition to making money on the venture.

Mr. Beech inquired if PMMIC had approached potential transfer owners about the proposal. Mr. Norris indicated that PMMIC wanted to approach the Board first to see if the Board was receptive to the idea. After brief discussion, Mr. Scheidel offered to bring extensive loss portfolio transfer information, including documentation regarding the small LPT recently completed, to the next Board meeting for discussion. Mr. Steward and Mr. Scheidel discussed the possibility of receiving the proposal in closed session, and which discussion documents would remain confidential and which would not. Mr. Scheidel requested that Mr. Norris bring to the next Board meeting some numbers regarding payment amounts on the previously transferred claims for Board reference.

*The Board took a break at 10:55 A.M.*

*The Board reconvened at 11:10 A.M.*

Mr. Scheidel walked the Board through the June Monthly Activity Report, noting that fiscal year end information was shown. He noted that almost \$600,000 was paid in fiscal year 2007 on plastic water line replacement. And highlighting the open claim information, Mr. Scheidel stated there were reserve balances of approximately \$4M for 75 open retroactive claims, \$55.5M for 955 remedial claims, \$9.7M for 255 innocent landowner claims, and \$1.6M for 267 global settlement claims. He offered to remove the AST claims section from the report since all AST claims were closed. Also, he offered to remove the number of UST licenses in force, now that the DNR had been transferred the licensing program.

Mr. Scheidel reported on the status of guaranteed loans under the Loan Guarantee Program, stating that only 2 outstanding loans remained with a balance of \$229,799, and the loans were scheduled to mature in 2012 and 2014.

Next Mr. Gastineau presented a memo regarding the remedial innovative technology (REMIT) and community remediation projects (CRP) that were either completed/terminated during fiscal year 2007 or remained open going into fiscal year 2008. He summarized the activities of each project for the Board. Highlights from the last year included the termination of projects in Climbing Hill, Sheldon, Adel, Ida Grove, and Davenport. A new project added during fiscal year 2007 was a CRP in Galva to address contamination at two high risk sites due to proximity to the former municipal water wells and a protected groundwater source. The Board members discussed at the length the fact that several counties will not implement an ordinance to restrict the placement of new drinking or non-drinking water wells. The expenditures at many projects and individual sites seemed to be directly and adversely affected by the inability to remove the potential protected groundwater source receptor by using an institutional control. Several ideas were discussed including partial ordinances and covenants. Mr. Scheidel threw out an idea of handling various sites and projects within one county as one project for a contracted consultant to pursue a county ordinance to affect all LUST sites within a county. The Board decided they would like to discuss the issue further as an agenda item in August. Mr. Gastineau explained that DNR attorney David Wornson very recently had sent a letter expressing the DNR's authority to override county sanitarians, and he requested that a site owner in Rose Hill, Iowa close his water wells or the DNR could issue an administrative order demanding compliance. Following which, Mr. Wornson contacted the owner explaining that the county could pay to close his wells. The site owner agreed and the county sanitarian closed his wells immediately. Mr. Beech expressed that he would like the Administrator's Office to pursue the use of DNR's authority in the future to eliminate water well receptors at more sites. Mr. Gastineau included a spreadsheet with the status memo that showed the expenditures of each project.

Mr. Scheidel next directed the Board's attention to a spreadsheet and series of graphs containing fiscal year end data from 1990 to 2007. Data included in the spreadsheet and in the graphs included total numbers of open claims by year and total amount of outstanding reserves by year, as well as, totals for individual claim types (remedial and ILO). Additionally, the graphs provided a comparison between the outstanding reserves of each claim type and its corresponding fund balance. Mr. Scheidel noted that the downward trend in the number of open files for each claim type in one graph. Another graph illustrated the trend in outstanding reserves showing a huge dip in reserves in 1995 and 1996 as a result of the implementation of the risk based corrective action (RBCA) evaluation of sites that lowered the projected cost of cleaning up sites based on risk to human health as opposed to simply the existence of contamination. On the same graph it was noted that reserves had been over-adjusted based on the RBCA model and the reports due by 2000 proved that slightly higher reserves would be necessary, as represented by a small spike in 1999 and 2000 followed by a steady decline in reserves through 2007 to match the slope of the open claims graph. Another graph revealed a gap of 304 potential lost LUST sites that did not have eligible UST Fund claims. Three new graphs showed the percent change from year to year of DNR's LUST numbers, the UST Fund claim count, and the UST claim reserves. The reserves graph spiked in 2005 illustrating the logging of AST claim reserves following AST legislation. Environmental Protection Charge collections and gas prices were examined on another graph.

Next Mr. Scheidel highlighted the fiscal year to date financial statement as of May 31, 2007, noting that the projected remedial and retroactive claim payments exceeded the actual remedial and retroactive claim payments by more than \$5M.

Mr. Scheidel guided the Board through another table of projected cash flows available for corrective action costs. The working document presented an income statement and balance sheet for the Fund, and showed the expected revenues, as well as, a flat amount of projected expenditures for each claim type for each year through the sunset of the Program in June 2016. Expenditures also included transfers of funds to DNR and other government diversions of funding, as well as, debt service payments. He combined the Unassigned Revenue funds with the Remedial funds to address future remedial claim payments, and he kept the other claim types within their funds for projection, rather than lumping all funds and claim payments together. The projection showed that the combined Unassigned Revenue plus Remedial funds could run out first by 2012 if the payouts go as projected. He pointed out that the new tank pull legislation had not factored into this particular table, and would be discussed as a Board issue later in the meeting.

*B. Status of 28E Agreements*

Mr. Scheidel reviewed with the Board the 28E Agreements the Board has entered into since the inception of the program, noting that 7 of the 20 agreements had expenditures in fiscal year 2007. One agreement between the Board and the DNR involved a large sum paid to the DNR from a UST Fund eligible claimant for the management of two sites, including Galva, as previously discussed.

*C. Attorney General's Report*

Dave Steward reported to the Board that his work for the Fund continued to include drafting 28E agreements. Tim Benton stated that he continued to follow up on appeal hearings for the Board. He had two scheduled for August.

*The Board took a break for lunch at 11:50 A.M.*

*The Board reconvened at 12:32 P.M.*

*D. Prior Year's Goals*

*a. Remedial Program -- "Getting Sites to Closure"*

Mr. Scheidel reviewed with the Board the goals set in August 2006 to continue to close UST sites. A goal of 188 claims closed was set to measure the Boards' progress for closing sites. The number was derived from DNR's goal set by the EPA to close 150 LUST sites plus 25% more sites. The goal was not achieved as only 166 claims were closed in FY07, however DNR had a backlog of 52 sites requesting NFA waiting for review. Newly hired staff had since accepted 20 of those after fiscal year end. The net claim count was reduced by 132 claims. Another numerical goal set to help achieve the previous goals was 150 corrective action meetings, and that goal was met with 159 meetings held. As a side note, he explained that the DNR hired two new project managers to pick up the back up of pending report reviews – especially for files pending no action required (NAR) classifications.

Mr. Scheidel reviewed the small loss portfolio transfer (LPT) entered into with PMMIC for ten claimants who elected to participate out of fourteen shared sites. He stated that the Board had set a goal to evaluate risk transfer mechanisms for sites that achieve no further action (NFA) for the purpose of ensuring closure of the Board's liability and to provide confidence for the DNR staff to issue NFA certificates. A joint meeting was held to that end with the Administrator's Office and the DNR; however discussions were tabled during legislative session pending the passage of a bill with regard to NFA funding. The change in the NFA language called for direct Board involvement if a site is to be reopened after NFA. A draft agreement pursuant to the statutory change was provided to DNR in June to begin the implementation of the rule changes. He explained that the statute and the draft agreement were written in such a way to allow the Board to still pursue a risk transfer mechanism to gain certainty on their liability for NFA claims.

And Mr. Scheidel discussed the progress of the risk based corrective action (RBCA) model evaluation, as facilitated by advisory group discussions with LaDon Jones, developer of the RBCA model, based on an evaluation of data collected over the past decade. The group's final recommendations were for changes that in most instances will likely reduce the projection of plume migration. He stated DNR would implement the revisions through rule changes. Also, he explained that selective use of the model might save the Board significant money by reducing the scope of remediation or the time required to perform remediation at some sites.

b. Transfer of Installer/Inspector/Tester Licensing Program

Mr. Scheidel explained that the Board and DNR entered into an agreement to work together to effect the transfer of the Installer/Inspector Licensing Program from the Board to the DNR, and the final transfer of records occurred on June 29, 2007. He stated that the Program Administrator's staff remained available for assistance to the DNR regarding the program.

c. Complete AST Reimbursements and Close Out AST Fund

Mr. Scheidel stated to the Board that the AST claims reimbursement program had ended during fiscal year 2007 and all AST claims had been closed. The final AST claim count was 414 with \$11,217,932.11 paid.

d. Maintain Short and Long Term Solvency

Mr. Scheidel reviewed the Board's goals regarding the maintenance of short and long term solvency by addressing sites that pose actual risk before those that present a simulated or theoretical one. He reported that the DNR held business process improvement events that resulted in the evaluation and recalibration of the RBCA model, potential changes in how sites are classified, possible prioritization of sites by DNR staff to include more detail and allow for highest risk sites to move forward first and placing greater reliance the reports submitted by certified groundwater professionals.

e. Legislative Initiatives

Mr. Scheidel stated that the Board didn't have any specific statutory changes to pursue for the 2007 legislative session. The Board did agree to assist DNR in their pursuit of statutory language to transfer the authority for Installer/Inspector licensing to DNR. The transfer of the



licensing program was completed. Additionally, the Board was involved in a change to NFA funding, as requested by Petroleum Marketers and Convenience Stores of Iowa (PMCI), and the language was passed with an amendment to provide express authority to the Board to reopen claims to reimburse claimants for the removal of upgraded tanks. Rules for implementation of the upgraded tank pulls would be a Board issue discussed later in the meeting. He also noted that the legislative session resulted in an additional diversion of funds totaling \$3M to the General Fund to be transferred in fiscal year 2008.

## **II. DNR Report on UST Issues**

Rochelle Cardinale from the DNR summarized the Department's activities over the past fiscal year for the Board. She explained that the legislation passed in Senate File 499 included the authority to implement provisions of the Federal Energy Policy Act including provisions for secondary containment and delivery prohibition. The rules filed to implement the statute were scheduled for public comment in hearings across the state in August.

She stated that a meeting was held with field office staff in July to discuss the third party inspection process, audits and to train staff on the new inspection database. Also, she said that training was held for another class of compliance inspectors, during which five additional individuals were certified. The installer/inspector program transfer from the Board's authority was nearly completed with a new database for tracking and all records received from the Administrator's Office. Rules were filed emergency and adopted on July 6, 2007.

Ms. Cardinale noted that the DNR was nearing their 3<sup>rd</sup> anniversary of the Kaizen event that resulted in the corrective action meeting process, and 730 meetings had been held with 373 memoranda of agreement completed. Additionally, she stated the leaking underground storage tank (LUST) risk classification statistics included 864 high risk, 465 low risk, 4,542 NAR, 72 NAR with free product, and 181 sites remained unclassified. Also, she revealed that 121 LUST sites were classified NAR so far during federal fiscal year 2007, which would end on September 30, 2007. The EPA's goal for the Iowa DNR was to clean up 130 LUST sites, with an additional goal of 15-20 more to receive more grant money (totaling approximately 150).

Lastly, Ms. Cardinale reported on ongoing DNR projects including the software investigation committee, which would continue to work on drafting rule changes to implement new RBCA software and restrictions for its use. She stated the installer/inspector licensing rules would be revised to reflect statutory changes passed in Senate File 499 and incorporate criteria for licensing people who perform UST closures. She said that DNR would be seeking stakeholder input in the future regarding an owner/operator training program, as well.

## **III. Program Goals—Fiscal Year 2008**

Mr. Scheidel noted that in the Board packets was an outline with a number of issues that the Board should consider for fiscal year 2008. These issues were as follows:

### **A. Issues from Last Year**

## **B. Remedial Program—Getting Sites to Closure**

Mr. Scheidel proposed that the Board develop goals for fiscal year 2008 through discussion again. He offered that the Board consider setting number or percentage goals for the closure of claims, as well as, setting an activity goal, process improvement goals, RBCA changes, loss portfolio transfer strategy review or risk transfer mechanisms.

Mr. Scheidel noted that the Fund had closed 166 claims; however the net number of claims closed was 132 for FY07. 1) Therefore he stated the Board could strive for the current year's net closure rate of 132 plus 25% additional claim closures totaling 165 net closures as the goal for FY08. 2) Next, he stated the Board could set a goal of 100 corrective action meetings to push remaining sites on through the process. Other areas for discussion were listed as process improvements, RBCA changes including model or receptor treatment, LPT review strategy and risk transfer mechanisms. 3) The Board set a goal to follow through with the implementation of the RBCA Tier 2 model changes and with their cooperation with DNR regarding its use. Mr. Scheidel reminded the Board that Mr. Beech had previously suggested the treatment of plastic water lines (PWL) as a receptor be reviewed and discussed. 4) Therefore, he suggested a resulting goal of the Board to be possible rule or policy changes with regard to PWL receptors by the end of FY08. 5) Also, the Board wanted to review their strategy regarding loss portfolio transfer, as scheduled for the August meeting. 6) The Board indicated they would like to follow up on risk transfer mechanism discussions. Mr. Scheidel explained that the discussions were still tabled pending DNR response to the draft agreement for NFA funding, as the Board is responsible for having funding available for the NFA claims, while the language leaves the possibility for a risk transfer mechanism. Ms. Christiansen inquired if the Board should schedule a response from the DNR by a certain date. Mr. Scheidel responded that he would like the final agreement to be executed by the end of the calendar year. Finally, he suggested another goal of the Board could involve the discussion of water well closure and the use of DNR's authority to push well closure as a receptor. 7) The Board set a goal to hold joint discussions between the Fund and the DNR by the end of calendar year 2007 to develop criteria to identify sites where it would be appropriate to use DNR's authority.

## **C. Maintain Short and Long Term Solvency**

Mr. Scheidel explained that the Board could at any time between now and 2016 attempt to get additional funding from the excess road use taxes collected, however it would only make sense to attempt when the legislature was looking to re-evaluate the Road Use already. Also, he explained that the auditor's office was to implement a new Government Accounting Standards Board standards, which state that entities have to account for long term liabilities in their reporting. Going forward, the audits will show a pending deficit rather than a large surplus of monies that the Fund has not yet been able to spend, in spite of reserves. Ms. Voss suggested the Board discuss legislative issues further as the new session approaches. Also, Mr. Scheidel explained that the Fund would continue to work with DNR to coordinate efforts through monthly meetings.

## **D. Comparison of Iowa UST Program with Other States' Programs**

Mr. Scheidel noted that a general comparison to other state programs was included in the Board packets as well as the entire state fund survey from the State Administrator's Conference in June.

#### **E. Legislative Initiatives**

Mr. Scheidel commended the DNR on their efforts over the past year, and he expected to continue to meet with the DNR regarding their receptor authority.

#### **IV. UST State Fund Administrators' Conference**

Mr. Scheidel noted that the comparison tables between states' programs were included in the Board packet for their review and discussion.

#### **V. Summary**

Mr. Scheidel summarized the Strategic Planning Session by stating that he would list the goals set during discussion and send them electronically to Board members for review before posting the 2008 goals in the next Board packet for August.

The Strategic Planning Session ended at 1:17 P.M., and the Board moved into general Board business at that time.

*Mr. Larson exited the meeting at 1:17 P.M.*

#### **APPROVAL OF PRIOR BOARD MINUTES**

The minutes from the May 24, 2007 meeting were reviewed and Ms. Christiansen made a motion to approve the minutes, Mr. Holcomb seconded, and by a vote of 5-0 the minutes were approved.

#### **CLOSED SESSION**

Ms. Voss noted there were no matters dealing with litigation for discussion in closed session pursuant to Iowa Code Chapter 21.

#### **PUBLIC COMMENT**

Jeff Hove from Petroleum Marketers and Convenience Stores of Iowa (PMCI) expressed some interest regarding the rural distribution of retail sites in Iowa, explaining that a notice of rules currently before the Environmental Protection Committee involved the "red-tagging" of sites if the shutting down of retail sites would not have an adverse impact on a community. He explained that DNR had stated in the draft language that this program of closing down retail sites would not adversely affect a community. Mr. Hove inquired if the retail sites could be mapped to show current distribution. Mr. Scheidel stated he would request information from PMMIC regarding their GIS mapping of their insured sites. Also, he thought the DNR had similar information on registered UST sites.

Darren Binning from Seneca inquired about the UST closure rules and when they would be ready for filing. Mr. Scheidel responded that the rules were on the agenda under Board issues for this meeting. He explained that the rules included provisions that budgets must be pre-approved and the recipient of UST closure claim payments would have to be a responsible party.

## **BOARD ISSUES**

### **A. Fiscal 2008 Budget**

Mr. Scheidel noted changes in the 2008 budget compared with that of previous years. He stated that no Installer Licensing fees would be received in FY08 due to the transfer of the program to the DNR. He noted the AST Fund would be closed out entirely and the remaining interest transferred to the Unassigned Revenue Fund. He stated that due to the status of the Loan Guaranty Program with potential liabilities of approximately \$229,000, the Board could elect to transfer \$1M from the Loan Guarantee Fund into the Unassigned Revenue Fund. He noted the transfer of \$5M from the Unassigned Revenue Fund to the Remedial Non-Bonding Fund for the payment of claims. And he pointed out the statutory transfer of \$200,000 to the DNR from Unassigned Revenue, as well as, the payment of potentially another \$200,000 to the DNR for a 28E agreement for FY07 funding of the UST section based on milestones. Lastly, Mr. Scheidel reminded the Board that the 2006 session of the State Legislature had set to divert another \$3.5M from the Unassigned Revenue Fund to the Department of Economic Development for the Iowa Renewable Fuels Infrastructure Board, and the 2007 session of the State Legislature had set to divert \$3M from the Unassigned Revenue Fund to the State General Fund.

Mr. Holcomb made a motion to approve the fiscal year 2008 budget as presented, and Ms. Christiansen seconded the motion. Approved 5-0.

### **B. Fiscal Year 2008 Reimbursement Agreement with Attorney General's Office**

Mr. Scheidel presented to the Board the proposed reimbursement agreement for Fiscal Year 2008 with the Attorney General's Office. Mr. Scheidel noted to the Board that the Department of Justice had drafted and submitted the agreement to the Board for reimbursement of approximately \$105,000 for FY08.

Mr. Holcomb made a motion to approve the reimbursement agreement with the Attorney General's Office, and Mr. Beech seconded the motion. The agreement was approved by a vote of 5-0.

### **C. UST Fund Transfers**

Mr. Scheidel presented a memo listing the recommended fund transfers, as previously discussed during approval of the 2008 budget. He listed them including the \$5M transfer from Unassigned Revenue to Remedial Non-Bonding to pay claims, the \$1M transfer from Loan Guaranty to Unassigned Revenue, the \$102,272.55 transfer from AST to Unassigned Revenue following the closure of the AST Fund, and the transfer of the available Revenue Fund balance of \$760,211.87 to the Unassigned Revenue Fund after the semi-annual bond payment had been made.

Although included within the previously approved budget, Mr. Scheidel recommended the Board specifically approve the listed UST Fund transfers for the record. Mr. Holcomb moved to approve the entire list of transfers to be completed during FY08, and Mr. Beech seconded the motion, which was approved by a vote of 5-0.

#### **D. 12-Month Board Meeting Schedule**

Mr. Scheidel presented a memo to the Board listing the tentative dates of the next year's Board meetings. The memo contained an error for the date of next years' annual strategic planning session, which should have read "Thursday, July 17, 2008."

#### **E. Upgraded UST Closure Draft Rules**

Mr. Scheidel presented drafted copies of the Notice of Intended Action and the Adopted and Filed Emergency after Notice forms of administrative rules to be filed regarding Iowa Administrative Code (IAC) 591, Chapter 11, Claims. The new rule would facilitate the Board's authority to reimburse eligible UST Fund claimants for the removal or permanent closure of any newer or upgraded UST's. The rule was similar to a previous rule precipitated by a statute passed by the 2004 legislature for the removal of upgraded tanks as long as they were present at the time the UST claim was filed and the removal budget was approved prior to the commencement of work. Approximately, \$600,422.00 of claim payments was spent resulting from the 2004 legislation for UST removals that occurred between April 20, 2004 and December 31, 2005. The new rule stated that the UST removal must have taken place after July 1, 2007, which is when the new statute was effective. New qualifications for an eligible removal were listed within the rule including the following: 1) A budget for the entire scope of work must be submitted for any UST removal costs to be approved for reimbursement when the UST removal is part of a larger project; 2) The Board may elect to complete UST removal under a method similar to the UST closure contracts, and any co-payment shall be paid by the claimant upon the termination of the project; 3) Claimants would be responsible for ensuring that any persons performing work meet all applicable licensing or certification requirements that exist at the time of completion of the work to be reimbursed; 4) and claims made under the sub rule would be subject to co-payment requirements and cost recovery enforcement. Additionally, the new rule would delete IAC 591, Chapter 15, Installers and Inspectors from the Board's administrative authority based on the recent transfer of the Installer and Inspector Program to the DNR and the DNR's adoption of their own administrative rules for the program.

Ms. Christiansen filed a motion to approve the administrative rule draft as written, and Ms. Johnson seconded the motion. Approved 5-0.

#### **F. Reauthorization of 28E for UST Closure Contracts**

Mr. Scheidel presented the Board with a memo regarding the reauthorization of the UST closure contracts for the Eastern and Western regions of the state. Pursuant to a 28E agreement between the DNR and the Board, the Board entered into contracts in 2004 with two separate groundwater professional firms to complete UST removals and site assessments at DNR-selected sites. The term of the original agreement was for two years with the option of 4 one-year extensions. The current funding authorization for the contracts totaled \$450,000. Mr. Scheidel recommended the Board approve the 2<sup>nd</sup> extension of that agreement to continue the projects through July 15, 2008, as the DNR had additional sites to add to the project list.

Mr. Beech submitted a motion to approve the 2<sup>nd</sup> one-year extension of the agreement. Mr. Holcomb seconded the motion which passed on a vote of 4-0. Ms. Christiansen abstained from the discussion and the vote.

Additionally, Mr. Scheidel recommended the Board approve the extension of the two contracts with the groundwater professional firms for one year to complete the work authorized by the 28E agreement along with additional funding authorization totaling \$700,000. Mr. Scheidel explained that price increases submitted to the Administrator's Office by the groundwater professional firms contracted were communicated to the Board via electronic mail previously, and he recommended a 10% increase in vendor unit rates for these projects. Mr. Beech submitted a motion to approve the extension of the contracts for one year and for the additional funding authorization. Mr. Holcomb seconded the motion. The motion passed on a vote of 4-0, with Ms. Christiansen abstaining from the discussion and the vote.

#### **G. 28E Agreement for DNR Legal Position**

Although on the agenda for the meeting, the DNR had not yet prepared a draft 28E agreement for Iowa UST back-up funding of their new legal position, which is currently funded by federal grant money. Mr. Scheidel noted the agreement in concept had been previously approved by the Board, and he expected the draft would be presented in August.

#### **PROGRAM BILLINGS**

Mr. Scheidel presented the monthly billings to the Board for approval.

1. Aon Risk Services.....\$ 118,222.00  
Consulting Services July 2007 -- \$65,638.00  
Claims Processing Services July 2007 -- \$52,584.00
2. Aon Risk Services.....\$118,222.00  
Consulting Services August 2007 -- \$65,638.00  
Claims Processing Services August 2007 -- \$52,584.00
3. Attorney General's Office .....\$ 9,214.96  
Services provided for Underground Storage Tank Program  
Billing for May 2007
4. Attorney General's Office.....\$4,990.35  
Services provided for Underground Storage Tank Program  
Billing for June 2007
5. Jackie Johnson .....\$127.84  
Reimbursement for travel to UST Board meeting in Des Moines,  
Iowa on May 24, 2007
6. Nancy Lincoln.....\$99.28  
Reimbursement for travel to UST Board meeting in Des Moines,  
Iowa on May 24, 2007
7. Office of Auditor of State .....\$4,786.13  
Audit services provided for Underground Storage Tank Program  
For fiscal year 2006

8. Iowa Department of Revenue .....\$1,526.07  
Environmental Protection Charge collections  
April – June 2007

There were no billings for outside cost recovery and litigation counsel presented for this month's meeting. On a motion by Ms. Christiansen and a second by Ms. Lincoln, the billings were approved by a vote of 5-0.

### **MONTHLY ACTIVITY REPORT**

Mr. Scheidel noted that the May and June monthly activity reports, financials and opt-in reports were included in the packet for the Board to review.

### **ATTORNEY GENERAL'S REPORT**

Mr. Steward stated that his current work for the Board consisted of assisting the DNR with a draft of the 28E for the Department's legal position funding, as well as, a 28E between the DNR and the UST Board regarding no further action claims.

### **CLAIM PAYMENTS**

Mr. Gastineau summarized the claim payment reports and project change orders in the Board packet. In addition, there was one more claim payment report carried-in and handed to the Board. Mr. Gastineau presented the reports as follows:

#### **1. Site Registration 8600623 – Conoco Express Mart, Independence**

This site was classified high risk for the soil vapor to enclosed space pathway due to the persistent failure of soil vapor samples. The site was a bedrock site with no active UST's. The DNR required soil gas plume definition followed by corrective action of the soil gas plume. The preferred corrective action was soil vapor extraction/ air sparge (SVE/AS) or Biox. A pilot test was to be completed to determine if SVE/AS was feasible. Previous approval to \$75,000 had been granted, of which \$64,881.24 was spent to date. Additional authority to \$200,000 was requested for a site monitoring report (SMR) and implementation of the corrective action design report (CADR).

Motion to approve claim authority was submitted by Ms. Johnson and seconded by Ms. Christiansen. Approved 4-0.

#### **2. Site Registration 9016940 – Ivy's Real Estate Corp, Sioux City**

The site was classified as no action required with free product. The DNR had not ruled out the possibility of requiring re-evaluation of the receptor pathways due to increases in the groundwater concentrations at the site. A multi-phase extraction (MPE) system was proposed at the site to remove the free product. Previous approval to \$75,000 had been granted, of which \$57,578.12 was spent to date. Additional authority to \$300,000 was requested for free product recovery (FPR), implementation of a MPE system, and operation and maintenance.

Motion to approve claim authority was submitted by Ms. Christiansen and seconded by Ms. Johnson. Approved 4-0.

### **3. CRPCA 0406-38 – Rose Hill**

This community remediation project was contracted in 2004 to address a site in Rose Hill, Iowa, that was previously assessed under the Board authorized State Lead Closure Contract project. The high risk concerns associated with the site included one plastic water line, a sanitary sewer, and two private water wells. Since the inception of the project, minimal work had been completed due to access problems and issues regarding the wells on a neighboring property. Future work may include activities to remove contaminants and/or receptors. The agreement for the project was written as a 2-yr agreement with the option of four 1-yr extensions. The current agreement term was set to expire on August 30, 2007, and the Administrator recommended a one-year extension for this project. Current contract authority for this project was \$30,898.42, and no change to the Board's funding authority limit was requested. Costs incurred to date were \$12,945.00.

Ms. Christiansen submitted a motion to extend the contract for the Rose Hill project for one year to August 30, 2008. Mr. Holcomb seconded the motion, which was approved 5-0.

### **4. CRPCA 0206-28 – Walnut**

This community remediation project was contracted in 2002 to assess three sites in Walnut, Iowa. The contract for this project was amended in 2004 to allow for the implementation of the selected corrective actions, which had included the installation of dual phase extraction (DPE) system, free product recovery activities, and various Tier 3 approaches for the limiting receptors. It was anticipated that the DPE system would require 2-3 years of additional operation to meet the site specific target levels (SSTL's). Free product recovery was ongoing. The amended agreement for the project was written as a 3-yr agreement with the option of three 1-yr extensions. The current agreement term was set to expire on October 1, 2007, and the Administrator recommended a one-year extension for this project. Current contract authority for this project was \$448,014.98, and no change to the Board's funding authority limit was requested. Costs incurred to date were \$380,349.33

Mr. Holcomb submitted a motion to extend the contract for the Walnut project for one year. Mr. Beech seconded the motion, which was approved 5-0.

### **5. CRPCA 9710-07 -- Akron**

This community remediation project was contracted in 1998 to assess two sites in Akron, Iowa. The contract for this project included site evaluation and the preparation of a corrective action design report. The contract was amended in 2004 to allow for the implementation of the selected corrective action plan which included the operation of a DPE system for 2 years to be followed by monitoring and a Tier 3 evaluation. The sites were now in the post-remediation monitoring phase. It was anticipated that further monitoring and/or Tier 3 evaluation activities would be necessary for 2 to 3 years. The amended agreement for the project was written as a 3-yr agreement with the option of three 1-yr extensions. The current agreement term was set to expire on October 3, 2007, and the Administrator recommended a one-year extension for this



project. Current contract authority for this project was \$442,118.94, and no change to the Board's funding authority limit was requested. Costs incurred to date were \$356,875.44.

Ms. Christiansen submitted a motion to extend the contract for the Akron project for one year. Ms. Lincoln seconded the motion, which was approved 5-0.

#### **6. Site Registration 8604024 – Rosco, Inc., Independence**

This was a second Board report for this bedrock site that was high risk for the groundwater ingestion and soil leaching to groundwater ingestion pathways. The remediation system (VVS) had been shut down and an excavation was to be completed. The contractor had indicated that the scope of the excavation had increased due to higher than expected soil contaminant concentrations on the sidewalls. Additional authority would be needed to cover the post-excavation monitoring and potentially some additional corrective action following stabilization of the site after the excavation has been completed. Previous approval to \$240,000 had been granted, of which \$193,020.75 was spent to date. Additional authority to \$365,000 was requested for a SMR and implementation of the excavation.

Motion to approve claim payment was submitted by Mr. Holcomb and seconded by Ms. Christiansen. Approved 5-0.

#### **CONTRACTS ENTERED INTO SINCE MAY 24, 2007 BOARD MEETING**

The Board had not entered into any new agreements/contracts since the May Board meeting.

#### **OTHER ISSUES**

The next meeting of the Board was scheduled for Thursday, August 23, 2007 at 10 A.M at the Iowa Insurance Division.

#### **CORRESPONDENCE AND ATTACHMENTS**

Ms. Voss noted that there was no further business, and there being none, she moved for adjournment. Mr. Holcomb seconded the motion, and on a 5-0 vote, the Board adjourned at 2:00 P.M.

Respectfully Submitted,

Scott M. Scheidel  
Administrator